



DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Request for Intervention,

ACTION: Notice.

AGENCY: Division of Federal Employees', Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Labor.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Request for Intervention " This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained for free by contacting Anjanette Suggs by telephone at 202-354-9660 or by email at suggs.anjanette@dol.gov.

Submit written comments about this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3323, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email at suggs.anjanette@dol.gov. Please note that comments submitted after the comment period will not be considered.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs by telephone at 202-354-9660 or by email at suggs.anjanette@dol.gov.

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees. The Longshore and Harbor Workers' Compensation Act (LHWCA), at 39(a) generally authorizes the Secretary of Labor to prescribe rules and regulations to implement the Act. *See* 33 U.S.C. 939(a).

Attorney Fee Approval Request (LS-4)

When an attorney successfully obtains benefits for the injured worker or survivor, he or she may be entitled to a fee. *See* 33 U.S.C. 928; 20 CFR 702.132. In certain circumstances, the Act shifts payment of the attorney's fee to the employer (or its insurance carrier). 20 CFR 702.134. The appropriate adjudicator – an OWCP District Director, an Administrative Law Judge, the Benefits Review Board or a court – must approve the fee. The District Director rules on attorney fees for services rendered while the case is pending before him or her. 20 CFR 702.132. *See* 20 CFR 702.134.

The attorney requesting the District Director's approval must file an itemized fee petition for services performed at the OWCP level. To identify and timely respond to the

requests, OWCP is requiring attorneys to submit Form LS-4, Attorney Fee Approval Request. Using this form will speed the processing of attorney fee requests and the payment of such fees.

Application for Special Fund Relief (LS-5)

Under section 8(f) of the Act, 33 U.S.C. 908(f), if a pre-existing disability contributes to a disability or impairment from a subsequent work-related injury, the employer is liable for only the first 104 weeks of permanent disability compensation and the Longshore Special Fund (*see generally* 33 U.S.C. 944) is liable thereafter. *See also* 20 CFR 702.321. Hearing loss claims are different in that the Special Fund pays for the pre-existing hearing loss and the employer for the added hearing loss. An employer/carrier must submit a request for section 8(f) relief from compensation payments to OWCP; relief may be granted by an OWCP District Director or an Administrative Law Judge.

To identify and timely respond to requests under section 8(f), OWCP is requiring employers/carriers to submit Form LS-5, Application for Special Fund Relief. Form LS-5 reflects the application requirements codified at 20 CFR 702.321.

Commutation Application (LS-6)

When compensation under the LHWCA or the Defense Base Act (DBA), an extension of the LHWCA, is payable to certain aliens who are not residents (or about to become nonresidents) of the United States or Canada, the OWCP Director may commute future periodic payments and require payment equal to one-half of the commuted amount. *See* 33 U.S.C. 909(g); 42 U.S.C.1652; 20 CFR 702.142; 20 CFR 704.102. The Director may commute compensation payments at his or her option, and must commute them upon the application of the employer or insurance carrier.

In response to its LHWCA and DBA stakeholders and to facilitate the commutation of payments to injured workers and the beneficiaries of deceased workers, OWCP is requiring employers and carriers to file Form LS-6 to request commutation.

Request for Intervention (LS-7)

Title 20 CFR 702.311 empowers the District Directors to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and to resolve such disputes at the earliest practicable date. *See* 33 U.S.C. 923(a); 20 CFR 702.301 (“the district directors are empowered to amicably and promptly resolve such problems by informal procedures”). In some cases, the best resolution method is an informal conference. *See* 20 CFR 702.312-702.316 (establishing guidelines for conducting informal conferences).

Usually one of the parties requests an intervention or informal conference to assist with dispute resolution. Prior to scheduling an informal conference, the issues in dispute must be established and the District Director, or designee, must determine whether the type of intervention requested is the most effective means for resolving the disputed issues. The Form LS-7, Request for Intervention, will be used for that purpose.

Settlement Application Section 8(i) (LS-8)

LHWCA section 8(i), 33 U.S.C. 908(i), allows the parties to settle claims for compensation and/or medical benefits. A Settlement Application is time-sensitive because once the parties submit a settlement application, the District Director or Administrative Law Judge within thirty days must determine whether the settlement is adequate under the Act and regulations and, if so, issue a Compensation Order approving the settlement application in response.

To facilitate prompt processing of settlement applications, OWCP is requiring the parties to use Form LS-8 which outlines the terms of the settlement and provides the information required to determine the adequacy of the settlement proposal by the regulations. Title 20 CFR 702.242-702.243 authorizes this information collection.

Stipulation Approval Request (LS-9)

The regulations empower District Directors to resolve claims amicably and promptly, and issue formal compensation orders when the parties reach agreement on issues. *See* 20 CFR 702.301, 702.311, 702.315(a). To meet these goals, the District Director may issue an Order Approving Stipulations agreed to by all parties.

To facilitate prompt processing of requests to approve stipulations, OWCP is requiring the parties to use Form LS-9. The parties must attach the signed joint stipulations they wish to have approved. OWCP will prioritize handling of LS-9 forms.

This information collection is currently approved for use through March 31, 2023.

Legal authority for this information collection is found at 33 U.S.C. 939(a).

Regulatory authority is found at 20 CFR 702.132, 702.134, 702.321, 702.142, 704.102, 702.301, 702.312-702.316, 702.242-702.243, 702.301, 702.311 and 702.315(a). .

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the ADDRESSES section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB No. 1240-0058.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-Office of Workers' Compensation Programs, DFELHWC.

Type of Review: Extension of currently approved collection

Title of Collection: Request for Intervention, Longshore and Harbor Workers' Compensation Act.

Form: LS-4, Attorney Fee Approval Request, LS-5 Application for Special Fund Relief, LS-6 Commutation, LS-7 Request for Intervention, LS-8 Settlement Application Section, LS-9 Stipulation Approval Request by Registered or Certified Mail for Employers and/or Insurance Carriers, Attorney Fee Approval Request, Application for Special Fund Relief, Commutation Application, Request for Intervention, Settlement Application Section, and the Stipulation Approval Request by Registered or Certified Mail for Claimants and Authorized Representatives

OMB Control Number: 1240-0058.

Affected Public: Private Sector, Individuals and Households

Estimated Number of Respondents: 12,414 **Frequency:** On occasion.

Total Estimated Annual Responses: 12,414.

Estimated Average Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 3189 hours.

Total Estimated Annual Other Cost Burden: \$56,017.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Anjanette Suggs,

Agency Clearance Officer.

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